

HB 26 -- CIVIL JUSTICE FUNDING MODEL ACT

SPONSOR: Dugger

This bill establishes the Civil Justice Funding Model Act that requires all civil justice fundings to meet certain specified requirements. The civil justice funding company must provide the consumer's attorney with a written notification of the funding provided to the consumer within three business days of the funding date. A civil justice funding company is prohibited from specified activities and must require the contracted amount to be paid to the company to be set as a predetermined amount based on intervals of time from the funding date through the resolution date and not be determined as a percentage of the recovery from the legal claim. All civil justice funding contracts must contain certain disclosures and, unless otherwise specified, the disclosures must be typed in at least 12-point bold-type font and be placed clearly and conspicuously within the contract as specified.

These provisions must not be construed to restrict the exercise of powers or the performance of the duties of the Missouri Attorney General that he or she is authorized to exercise or perform by law. If a court determines that a civil justice funding company has intentionally violated these provisions with regard to a specific civil justice funding, the company must only be entitled to recover the funded amount provided to the consumer in the specific civil justice funding and cannot be entitled to any additional charges.

The bill specifies that a contingent right to receive an amount of the potential proceeds of a legal claim is assignable by a consumer. These provisions must not be construed to cause any civil justice funding transaction conforming to these provisions to be deemed a loan or subject to any of the provisions governing loans contained in the laws of this state and is not subject to any other statutory or regulatory provisions governing loans or investment contracts.

Only attorney's liens related to the underlying legal claim, Medicare, or other statutory liens related to the underlying legal claim can take priority over any lien of the civil justice funding company. All other liens must take priority by normal operation of law.

An attorney or law firm retained by the consumer in the legal claim must not have a financial interest in the civil justice funding company offering civil justice funding to that consumer. Any attorney who has referred the consumer to his or her retained attorney must not have a financial interest in the civil justice funding company offering civil justice funding to that consumer.

Any communication between the consumer's attorney in the legal claim and the civil justice funding company as it pertains to the civil justice funding cannot limit, waive, or abrogate the scope or nature of any statutory or common-law privilege, including the work-product doctrine and the attorney-client privilege.

A civil justice funding company may not engage in the business of civil justice funding in this state unless it has first registered in the manner prescribed by the Department of Insurance, Financial Institutions and Professional Registration and contains the information the department requires to make an evaluation of the character and fitness of the applicant company. The initial application must be accompanied by a \$500 fee. A renewal registration must include a \$200 fee. A registration must be renewed every two years and expires on September 30.

Upon investigation, the department may issue a certificate of registration if it finds that the character and fitness of the applicant company along with the officers and directors of the applicant company warrant the belief that the company will be operated honestly and fairly within the purposes of these provisions.

If a bond is required by the department, each registrant must, at the time of filing the application, file with the department a bond satisfactory to the department in an amount not to exceed \$50,000. In lieu of the bond, at the option of the registrant, the registrant may post an irrevocable letter of credit. The terms of the bond must run concurrent with the period of time during which the registration will be in effect.

Upon written request, the applicant is entitled to a hearing if the department has notified the applicant in writing that the application has been denied or if the department has not issued a registration within 60 days after the application was filed. A request for a hearing must not be made more than 15 days after the department has mailed a written notice to the applicant that the application has been denied and stating in substance the department's findings supporting denial of the application.

A civil justice funding company that registered with the department between the effective date of these provisions and six months thereafter may engage in civil justice funding while the company's registration is waiting approval by the department. All funding agreements prior to the effective date of these provisions are not subject to the terms of these provisions.

A civil justice funding company is prohibited from using any form

of civil justice funding contract in this state unless it has been filed with the department in accordance with the filing procedures set forth by the department.